

DEC 06 2017

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BY: *O'Connor*
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UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF VIRGINIA
CHARLOTTESVILLE DIVISION

ELIZABETH SINES, ET AL.,

Case No. 3:17-cv-00072-NKM

Plaintiffs,

Hon. Norman K. Moon

v.

JASON KESSLER, ET AL.,

Defendants.

**DEFENDANT MICHAEL PEINOVICH'S OPPOSITION TO
PLAINTIFFS' MOTION TO PRECLUDE HIM FROM RECORDING THE
PARTIES' DISCOVERY NEGOTIATIONS**

Defendant Michael Peinovich, Pro Se, submits this memorandum in opposition to Plaintiffs' motion to preclude him from recording the parties' discovery negotiations.

Defendant Peinovich finds himself battling, pro se and without a lawyer, against a dozen high-priced lawyers who are trying to overwhelm and destroy him – to silence and bankrupt him -- by means of a 96-page complaint that is replete with distortions and false statements and contains no plausible allegations Peinovich did anything not fully protected by the First and Second Amendments to the United States Constitution. Given the malice toward him embodied in the spurious complaint, Peinovich has every right to be wary and to try to protect himself as best he can against further falsehoods and misrepresentations. In this instance, Peinovich, seeking to protect himself and not disadvantage his future attorney, simply requested that he be allowed to record his telephone conversations with Plaintiffs' lawyers regarding discovery.

Plaintiffs' lawyers, however, seeing an opportunity to poison the court against Peinovich and make him seem an unreasonable and uncooperative extremist, refused this simple and reasonable request and filed their motion to preclude.

Peinovich would emphasize the following points:

- 1) His request is reasonable. He would like assurance that Plaintiffs' lawyers will not claim he made promises or statements he did not make, and he would like to preserve the discovery discussions verbatim for review by his future attorney, if he is able to find one.
- 2) If the Court instructs that he is not to record his telephone conversations with Plaintiffs' lawyers, he will of course comply. In his emails with Plaintiffs' counsel, he repeatedly made clear his willingness to comply with the Court's instructions. He does not feel, however, that he is bound to comply with demands made by persons dedicated to destroying him.
- 3) Plaintiffs' lawyers' pretext for their motion to preclude is that Peinovich would use the recorded conversations on his radio show. Plaintiffs' lawyers' machinations in this regard are shown by the fact that at no point did they ever *ask* Peinovich if he intended to use the conversations for this purpose, or even mention his radio show. If he had been asked, he would have made clear he will *not* use and has never had any intention to use the recorded conversations on his radio show.
- 4) Peinovich's radio show is admittedly edgy, controversial, satirical, and offensive to many. It is nonetheless fully protected by First Amendment cases and traditions. Peinovich has never come close to advocating violence or harm to others. Plaintiffs' lawyers' citations to the show are improper and are designed to prejudice the Court against Peinovich.

For these reasons, Peinovich respectfully requests that Plaintiffs' motion to preclude be denied, and that he be allowed to record his conversations with Plaintiffs' counsel, with the agreement that Peinovich will never use the recorded conversations on his radio show.

Respectfully submitted,



Michael Peinovich, Pro Se

CERTIFICATE OF SERVICE

On this day of November, 2017, I Michael Peinovich certify that I mailed copies of this opposition memorandum to:

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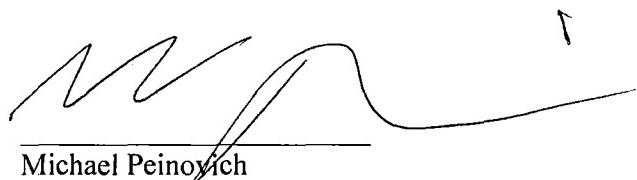
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A handwritten signature in black ink, appearing to read "Michael Peinovich". The signature is fluid and cursive, with a prominent loop on the left and a straight line extending to the right.

Michael Peinovich